

Message Text

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ACTION IO-10

INFO OCT-01 ISO-00 AF-06 ARA-06 EA-06 EUR-12 NEA-09 OIC-02

CIAE-00 DODE-00 PM-03 H-02 INR-07 L-02 NSAE-00 NSC-05

PA-01 PRS-01 SP-02 SS-15 USIA-06 SAJ-01 /097 W
----- 085862

R 071623Z MAR 75
FM AMEMBASSY VIENNA
TO SECSTATE WASHDC 5032
INFO USMISSION USUN NEW YORK
USMISSION GENEVA

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E.O. 11652: N/A
TAGS: PORG, AORG, PDIP, UN, UA
SUBJECT: ACTIVITY BY COMMITTEE OF THE WHOLE DURING PERIOD
MARCH 4 - 6, 1975: UN 1975 RSIO CONFERENCE, VIENNA

REF: VIENNA 2011

SUMMARY: COMMITTEE ACTED ON ARTICLES 73, 74, 74 BIS
80, AND 75 BIS THROUGH 82 BIS. RESULTS MIXED, WITH
VOTES ON 74 BIS, 81 AND 82 BEING ONES MOST FAVORABLE.
OTHERWISE, ILC TEXT PREVAILED. END SUMMARY.

1. ARTICLE 73 (LAWS CONCERNING ACQUISITION OF NATION-
ALITY) WAS DISCUSSED IN CONTEXT OF AUSTRALIAN AMEND-
MENT WHICH WOULD PLACE ARTICLE IN OPTIONAL PROTOCOL.
ARGENTINA, VENEZUELA, SOVIET DELS OPPOSED WHILE
CANADA, US AND UK DELS SUPPORTED. AUSTRALIAN AMEND-
MENT WAS REJECTED 19(US)-35-13 AND ARTICLE AS WHOLE
ADOPTED 54-5(US)-11.

2. ARTICLE 74 (PRIVILEGES AND IMMUNITIES IN CASE OF
MULTIPLE FUNCTIONS) WAS ADOPTED WITHOUT OPPOSITION.

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3. ARTICLE 74 BIS (COOPERATION WITH HOST STATE IN

INVESTIGATION AND PROSECUTION) WAS INTRODUCED BY AUSTRALIAN DEL. THIS ARTICLE, WHICH WAS ORIGINALLY DRAFTED BY US DEL, STATES THAT SENDING STATE "SHALL COOPERATE" IN INVESTIGATION AND PROSECUTION OF ATTACKS REFERRED TO IN ARTICLES 28, 29, 59 AND M. WE WERE CONCERNED THAT WITH ADDITION OF UKRAINE AMENDMENTS IN THOSE ARTICLES IT WAS ESSENTIAL TO OBTAIN BALANCING LANGUAGE. RATHER THAN PLACE PARAGRAPH IN CROWDED AGENDA OF ARTICLE 75, WEO GROUP DECIDED THAT IT SHOULD BE PRESENTED AS NEW ARTICLE. IN DEBATE SOVIETS AND LATIN AMERICANS OPPOSED WHILE SEVERAL DELS SUGGESTED SOME SOFTENING OF LANGUAGE. AUSTRALIAN DEL AGREED TO INSERT "AS FULLY AS POSSIBLE" AFTER WORD "COOPERATE". NEW ARTICLE WAS APPROVED BY EXTREMELY CLOSE VOTE 24-23-18.

4. TO ARTICLE 0 (IMMUNITY FROM JURISDICTION), UK PROPOSED ADDITIONAL PARA STATING THAT ANY DEL OR MEMBER OF DIPLOMATIC STAFF USING A VEHICLE, VESSEL OR AIRCRAFT IS SUBJECT TO JURISDICTION OF HOST STATE IN CASE OF ACCIDENT WHERE DAMAGES NOT RECOVERABLE FROM INSURANCE. INTENT OF AMENDMENT NEGATED BY LIBERIAN ORAL SUB-AMENDMENT LIMITING JURISDICTION TO PRIVATE CONVEYANCES USED OUTSIDE PERFORMANCE OF TASKS OF PERSONS CONCERNED. AMENDED ARTICLE ADOPTED 30-4-29(US).

5. AFTER DEBATE ON ARTICLE 75 (SEE REFTTEL), COMMITTEE TOOK UP BELGIAN PROPOSAL FOR NEW ARTICLE 75 BIS, SPECIFYING THAT MEMBERS OF MISSIONS OR DELEGATIONS SHALL COMPLY WITH ALL HOST STATE LAWS RELATING TO THIRD-PARTY INSURANCE FOR USE OF VEHICLES, BOATS OR AIRCRAFT. ITALY AND OMAN SPOKE IN FAVOR OF THIS POTENTIALLY USEFUL AMENDMENT AND PROPOSAL WAS ADOPTED WITHOUT VOTE.

6. ILC TEXT FOR ARTICLE 76 (ENTRY INTO THE TERRITORY OF THE HOST STATE) ADOPTED BY 57(US)-0-2 VOTE FOLLOWING REJECTION OF US SUB-AMENDED ISRAELI ORAL PROPOSAL TO SUBSTITUTE IN PARA 2 PHRASE "IN ADEQUATE TIME" FOR WORDS "AS PROMPTLY AS POSSIBLE" FOR ISSUANCE OF VISAS. ISRAEL HAD MOVED INSERTION OF WORDS "IMMEDIATELY". US LIMITED OFFICIAL USE

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AMENDMENT TO CONDITION ARTICLE UPON PROVISIONS OF ARTICLE 75 WITHDRAWN IN LIGHT OF EXPECTED VOTING OUTCOME. DURING CONSIDERATION ARTICLE 77 (FACILITIES FOR DEPARTURE), JAPAN PROPOSED ORALLY TO ADD PHRASE "IN CASE OF EMERGENCIES" TO BEGINNING OF ARTICLE, AND SPAIN SUBSTITUTED IN OWN AMENDMENT SUGGESTION BY PAKISTAN THAT, IN PLACE OF WORDS "IF REQUESTED", COMMITTEE USE "NORMALLY". US SOUGHT OPINION OF EXPERT CONSULTANT EL-ERIAN, WHO INDIRECTLY

AGREED THAT ILC INTENDED ARTICLE TO COVER UNUSUAL CIRCUMSTANCES. JAPAN WITHDREW AMENDMENT, AFTER WHICH SPANISH/PAKISTANI PROPOSAL DEFEATED 17-28(US, WEO)-16. ILC TEXT ADOPTED 61(US)-0-2. ARTICLES 78, 79 AND 80 ADOPTED WITHOUT VOTE AFTER QUITE BRIEF DISCUSSION.

7. EQUIVALENT OF TWO SESSIONS DEVOTED TO PITCHED DEBATE ON ARTICLES 81 (CONSULTATIONS BETWEEN THE SENDING STATE, THE HOST STATE AND THE ORGANIZATION) AND 82 (CONCILIATION), CENTERING ON SWISS PROPOSAL TO THOROUGHLY REVISE FOCUS OF ARTICLES AND TO SIMPLIFY CONCILIATION PROCEDURES AND QUICKEN THEIR PACE. FINAL FEATURES OF SWISS AMENDMENT WERE TO: A) RECAST ARTICLE 81 TO REFER TO PARTIES IN GENERAL SO AS TO PROVIDE FOR POSSIBILITY THAT THE DISPUTE MAY INVOLVE THE ORGANIZATION ITSELF, OR ANOTHER SENDING STATE, RATHER THAN THE HOST STATE; IN ARTICLE 82; B) SHORTEN TIME PERIOD FOR CONSULTATION PHASE FROM

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PA-01 PRS-01 SP-02 SS-15 USIA-06 SAJ-01 /097 W

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THREE MONTHS TO ONE; C) SHORTEN TIME PERIOD FOR CONCILIATION ITSELF FROM SIX TO TWO MONTHS, BEGINNING WITH APPOINTMENT OF CHAIRMAN; D) CREATE A REGISTER OF PERSONS DESIGNATED BY MEMBER STATES IN ADVANCE TO SERVE AS THAT STATE'S REP ON CONCILIATION COMMISSION; E) SPECIFY THAT RECOMMENDATIONS ISSUED IN COMMISSION'S REPORT,

IN CASE IT IS UNABLE TO OBTAIN AGREEMENT, ARE NOT BIND-
ING, ALTHOUGH ANY PARTY MAY UNILATERALLY ABIDE BY THESE
RECOMMENDATIONS.

8. BEVY OF ORAL SUB-AMENDMENTS WERE PROPOSED, WITH,
HOWEVER, EVERY SPEAKER APPLAUDING SWISS FOR SCHOLARLY
EFFORT REGARDLESS OF WHETHER SPEAKER INTENDED TO SUP-
PORT THE AMENDMENT. SWITZERLAND ACCEPTED SUB-AMENDMENTS,
RESPECTIVELY, BY TURKEY TO PUT BACK ORGANIZATION ROLE IN
PARA 2; BY USSR TO REINSTITUTE THE CHIEF ADMIN OFF OF ORGANIZA-
TION RATHER THAN SWISS-PREFERRED PRESIDENT OF ICJ AS
PERSON WHO WOULD NAME COMMISSION CHAIRMAN IN CASE
PARTIES TO DISPUTE DO NOT AGREE ON THAT POINT AND RESTORE
ILC PARA 7; AND BY NETHERLANDS THAT MORE APPROPRIATE WORDING BE
USED IN ONE PARA. AFTER AMENDED ARTICLE 81 ADOPTED BY
SIZABLE 39(US, WEO)-13(SOVBLOC)-12, AMENDED ARTICLE 82
WON BY NEAR UNANIMOUS 63(US)-0-2 VOTE.
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9. NETHERLANDS AND SWEDEN JOINED FORCES TO SUBMIT
NEW ARTICLE 82 BIS, INTENDED BY THESE COUNTRIES TO
HAVE BEEN FINAL PART OF THREE-STAGE PROCESS FOR RESOLV-
ING DISPUTES, AND WHICH COULD HAVE BEEN ENTITLED
"ARBITRATION OR ADJUDICATION OF DISPUTES". IT PROVIDED
THAT SHOULD COMMISSION'S RECOMMENDATIONS NOT BE ACCEPTED
BY PARTIES CONCERNED WITHIN THREE MONTHS OF COMMISSION'S
REPORT, AND UNLESS PARTIES AGREED TO ARBITRATION WITHIN
THIS TIME, EITHER PARTY COULD BRING THE DISPUTE BEFORE
THE ICJ. DEBATE DID NOT GO WELL FOR PROPOSAL, WITH
SOVBLOC AND SEVERAL AFRICAN STATES (IVORY COAST, MALI)
EXPRESSING ADAMANT OPPOSITION TO BOTH ARBITRATION AND
ADJUDICATION BEFORE ICJ. US, PAKISTAN, PERU INTERVENED IN FAVOR.
SPONSORS ALSO MISHANDLED DEFENSE OF AMENDMENT, CONCEDE-
ING MUCH TOO QUICKLY AND WITHOUT REFLECTION TO ADDITION
OF MALI ORAL SUB-AMENDMENT, THAT SENTENCE BE ATTACHED
TO EFFECT THAT CLAUSE MAY BE EXCLUDED FROM APPLICATION
BY ANY STATE SIGNING OR SUBSEQUENTLY ADHERING TO THE
CONVENTION. USSR TURNED THIS TO GOOD ADVANTAGE BY
POINTING OUT THAT UNDER INTERNATIONAL LAW ANY STATE
CAN NORMALLY ATTACH RESERVATION TO ANY CLAUSE OF
CONVENTION WITHOUT SUCH A PROVISION AND QUESTIONED
IMPLICATIONS OF SUB-AMENDMENT. CHAIR OF COURSE HAD
TO AGREE, AND DUTCH WERE PUT IN UNCOMFORTABLE POSITION
OF HAVING TO WITHDRAW SUB-AMENDMENT AS BEING SUPERFLUOUS.
ARTICLE THEN REJECTED ON 26(US, WEO)-31 (SOVBLOC, MALI, HOLY
SEE, IVORY COAST)-13 VOTE. MOWINCKEL

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: MEETING AGENDA, RELATIONS WITH INTERNATIONAL ORGS, MEETINGS
Control Number: n/a
Copy: SINGLE
Draft Date: 07 MAR 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: MorefiRH
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975VIENNA02012
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750081-0809
From: VIENNA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750370/aaaacldi.tel
Line Count: 220
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION IO
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 75 VIENNA 2011
Review Action: RELEASED, APPROVED
Review Authority: MorefiRH
Review Comment: n/a
Review Content Flags:
Review Date: 02 APR 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <02 APR 2003 by KelleyW0>; APPROVED <19 MAY 2003 by MorefiRH>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
05 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: ACTIVITY BY COMMITTEE OF THE WHOLE DURING PERIOD MARCH 4 - 6, 1975: UN 1975 RSIO CONFERENCE, VIENNA
TAGS: PORG, AORG, PDIP, AU, UN, STATE
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006